

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

COMMODITY FUTURES TRADING  
COMMISSION,

Plaintiff,

v.

Steven G. Schroeder,

Defendant.

CIVIL ACTION NO. 1:06 CV 0705

Gordon J. Quist  
U.S. District Judge

**ORDER FOR SUMMARY JUDGMENT ON DAMAGES  
AGAINST DEFENDANT STEVEN G. SCHROEDER**

This matter came before the Court on Plaintiff's Motion for Summary Judgment on Damages Against Defendant Steven G. Schroeder ("Schroeder") ("Motion"). The Plaintiff, Commodity Futures Trading Commission ("CFTC" or "Commission") filed a Complaint against the defendant in this case on September 27, 2006 ("Complaint"), seeking injunctive and other equitable relief, as well as the imposition of civil penalties, for violations of the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. §§ 1 *et seq.* (2002), and the Commission Regulations promulgated thereunder, 17 C.F.R. §§ 1 *et seq.* (2006). Thereafter, defendant Schroeder entered into a Consent Order of Permanent Injunction and other Ancillary Relief on October 6, 2006 ("Consent Order"). In the Consent Order, Schroeder admitted the jurisdiction of the Court over him and the cause of action, admitted that the allegations of the Complaint should be taken as true thereby resolving all issues of liability, and agreed to the entry of a permanent injunction, but

reserved the issues of the entry of an order regarding restitution and a civil monetary penalty. The Consent Order also retained this Court's jurisdiction over the action to ensure compliance with its provisions.

The Court having read and carefully considered the Plaintiff's Motion for Summary Judgment on Damages and the Plaintiff's Memorandum in Support of Motion for Summary Judgment on Damages Against Defendant Steven G. Schroeder, including all supporting documents filed therewith, including the Affidavit of Commission Futures Investigator William Heitner; and being fully advised;

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED THAT final judgment shall be and hereby is entered in favor of Plaintiff Commission and against Defendant Schroeder as follows:

**A. RESTITUTION**

1. Restitution. Defendant Schroeder shall pay restitution in the amount of \$187,703 ("Restitution Obligation"), plus post-judgment interest.

2. Post-judgment interest on the Restitution Obligation shall accrue commencing on the date of entry of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961.

3. Appointment of Monitor: To effect payment by defendant and the distribution of restitution, the Court appoints the National Futures Association ("NFA") as Monitor. The Monitor shall collect restitution payments from defendant and make distributions as set forth below. Because the Monitor is not being specially compensated for these services, and these services are outside the normal duties of the Monitor, he

shall not be liable for any action or inaction arising from his appointment as Monitor, other than actions involving fraud.

4. Defendant shall make his required restitution payment under this Order by electronic funds transfer, or by U.S. postal money order, certified check, bank cashier's check, or bank money order to the Office of Administration, National Futures Association, 300 South Riverside Plaza, Suite 1800, Chicago, Illinois 60606, under cover letter that identifies the Defendant and the name and docket number of the proceeding.

5. Defendant shall simultaneously transmit copies of the cover letter and the form of payment to (a) Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21<sup>st</sup> Street, NW, Washington, D.c. 20581, and (b) Chief, Office of Cooperative Enforcement, at the same address.

6. The Monitor shall oversee Defendant's Restitution Obligation, and shall distribute said funds to each investor according to the pro rata distribution percentages set forth in Attachment A hereto. Omission from Attachment A shall in no way limit the ability of any investor from seeking recovery from Schroeder or any other person or entity. Further, the Monitor may defer distribution until such time as it may deem appropriate. In the event that the amount of restitution payments to the Monitor are of a *de minimis* nature such that the Monitor determines that the administrative costs of the making of a restitution distribution to investors is impractical, the Monitor may, in its discretion, treat such restitution payments as civil monetary penalty payments, which the Monitor shall forward to the Commission following the instructions for civil monetary penalty payments as set forth in Section B, below.

7. Defendant shall execute any documents necessary to release funds that he has in any repository, bank, investment or other financial institution, wherever located, in order to make partial or total payment toward the Restitution Obligation.

8. Pursuant to Fed. R. Civ. P. 71, investors are explicitly made intended third-party beneficiaries of this Order and may seek to enforce obedience of this Order to obtain satisfaction of any portion of the restitution which has not been paid by the Defendant.

#### **B. CIVIL MONETARY PENALTY**

1. Defendant Schroeder shall pay a civil monetary penalty of \$130,000, plus post-judgment interest (the "CMP Obligation").

2. Post-judgment interest on the CMP Obligation shall accrue beginning on the date of this Order and shall be determined by using the Treasury Bill rate prevailing on the date of entry of this Order pursuant to 28 U.S.C. § 1961.

3. Defendant Schroeder shall pay his CMP Obligation by electronic funds transfer, U.S. postal money order, certified check, bank cashier's check, or bank money order. If payment is to be made by other than electronic funds transfer, Defendant shall make the payment payable to the Commodity Futures Trading Commission and send to the following address:

COMMODITY FUTURES TRADING COMMISSION  
Division of Enforcement  
Attention: Marie Bateman – AMZ-300  
DOT/FAA/MMAC  
6500 South MacArthur Boulevard  
Oklahoma City, OK 73169  
Telephone: 405-954-6569

4. If the payment is to be made by electronic funds transfer, Schroeder shall contact Marie Bateman or her successor at the above address to receive payment instructions and shall fully comply with those instructions. Schroeder shall accompany the payment of the penalty with a cover letter that identifies the paying Defendant as Schroeder and the name and docket number of this proceeding.

5. Defendant shall simultaneously transmit copies of the cover letter and the form of payment to (a) Director, Division of Enforcement, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21<sup>st</sup> Street, NW, Washington, D.C. 20581, and (b) Chief, Office of Cooperative Enforcement, at the same address.

6. Any acceptance by the Commission of partial payment of Defendant's CMP Obligation shall not be deemed a waiver of the respective requirement to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment of any remaining balance.

**C. PRIORITY OF MONETARY PENALTIES AND PARTIAL PAYMENTS**

1. All Payments by Defendant pursuant to this Order shall first be applied to satisfaction of the Restitution Obligation, consistent with the authority granted the Monitor above. After satisfaction of the Restitution Obligation, payments by Defendant pursuant to this Order shall be applied to satisfy Defendant's CMP Obligation.

2. Any acceptance by the Commission of partial payment from Schroeder of Defendant's Restitution Obligation and/or CMP Obligation shall not be deemed a waiver of Defendant's obligation to make further payments pursuant to this Order, or a waiver of the Commission's right to seek to compel payment from the Defendant of any remaining balance.

**D. MISCELLANEOUS PROVISIONS**

IT IS FURTHER ORDERED THAT:

1. **Prohibition on Transfer of Funds:** Defendant shall not transfer or cause others to transfer funds or other property to the custody, possession or control of any other person for the purpose of concealing such funds or property from the Court, the Plaintiff or any officer that may be appointed by the Court.

2. **Partial Lifting of Freeze:** Notwithstanding any order entered in this proceeding freezing Defendant's assets and/or prohibiting Defendant's transfer of funds or other property, such assets, funds, or property may be used to satisfy Defendant's Restitution Obligation or CMP Obligation as set forth above.

3. **Lifting of Freeze:** Upon full satisfaction by Defendant of his Restitution Obligation and CMP Obligation as set forth above, any order entered in this proceeding freezing Defendant's assets and/or prohibiting Defendant's transfer of funds or other property shall be lifted.

4. **Notices:** All notices required to be given by any provision in this Order shall be sent by certified mail, return receipt requested, as follows:

Notice to Commission:  
Director, Division of Enforcement  
Commodity Futures Trading Commission  
1155 21<sup>st</sup> Street, NW  
Washington, DC 20581

All such notices to the Commission shall reference the name and docket number of this proceeding.

5. **Invalidation:** If any provision of this Order or the application of any provision or circumstance is held invalid, the remainder of this Order, and the application of the provision to any other person or circumstance, shall not be affected by the holding.

6. **Continuing Jurisdiction of this Court:** This Court shall retain jurisdiction of this case to assure compliance with this Order and for all other purposes related to this action.

Ordered this 1st day of May, 2009

/s/ Gordon J. Quist

United States District Judge

# ATTACHMENT A



*CFTC v. Schroeder*, No. 1:06 CV 0705 (W.D. Mich.)  
 RESTITUTION SCHEDULE

Name	Address	Amount Owed in Restitution	Pro Rata Share
Kim, Christopher	41 - 16 28th Ave. Astoria, NY 11103	\$1,726	1%
Schubert, Gary	402 13900 Hyland Rd Surrey, BC Canada V3W1K4	\$4,723	3%
Nastari, Anthony	3360 N. Nuora Ave. Meridn, ID 83642	\$3,486	2%
Lembeck, James	658 E. Chaunsey Dr. Pueblo West, CO 81007	\$8,396	4%
Scodari, Marie	855 Princeton Ct. Neshanic Station, NJ 08853	\$4,115	2%
Krah, Jeffrey	70 Nagle St. Nashua, NH 03060	\$6,961	4%
Ake, Wayne	4 Elmhurst Ledera Ranch, CA 92694	\$74,702	40%
Haenze, Bernd	Lerchenstr 29 Dusseldorf, Germany 40547	\$24,981	13%
Capital Asset Group	68 Benton Rd. Elizaville, NY 12523	\$58,613	31%
<b>TOTAL</b>		<b>\$187,703</b>	<b>100%</b>

**ATTACHMENT**

**A**